

One of my objectives for using the NARRator is to have a forum for “best practices.” Periodically, members may contribute an article describing how they handle an aspect of railroad arbitration. I would hope that these stimulate some discussion and we are able to pick and choose from what other referees are doing so that we can improve our own practices. With the understanding that this may or may not be the “best” practice, let me kick this off by sharing the presentation I give when a claimant attends the hearing. You may make your own contributions to the forum by sending them to the NARRator Editor, Anna Smith, at admin@rr-referees.org – Barry Simon

“Good morning, my name is Barry Simon. Let me explain what we are going to be doing today.

“This is a Public Law Board established by agreement between the (Carrier) and the (Organization) pursuant to the Railway Labor Act. There are three members of this Board. (Carrier Member) is the Carrier Member of the Board and (Organization Member) is the Organization Member. Together they have selected me to be the third Member and Chairman of the Board.

“I have no affiliation with the (Carrier) or any other railroad, or with the (Organization) or any other union. My service on this Board is compensated by the National Mediation Board, a federal agency, so I am the neutral member. It takes two members of the Board to make any decisions.

“The procedures we are going to be following are the same as any other arbitration board in the railroad industry all over the country. Inasmuch as this is a discipline case, the Carrier has the burden of proof and will go first in making its arguments. The Organization will then make its arguments on your behalf, and there will be an opportunity for rebuttal arguments. One basic rule that we operate under is that this is an appellate process. I am not here to take evidence or hear testimony. I have received and reviewed copies of all of the correspondence between the parties during the handling of the claim on the property, as well as the transcript of your investigation. That is the record before me. Under the provisions of the agreement establishing the Board and the Railway Labor Act, the parties are prohibited from making arguments or introducing evidence that have not already been handled on the property. If one side were to make a new argument, I would expect the other side to object. If I determine that it is a new argument, I will not consider it.

“At the conclusion of the parties’ arguments, I will give you an opportunity to make a statement in your own behalf, and will give you some time before that to meet with your representatives in the hall. When you come back, the floor is yours. You may say whatever you want, but bear in mind that when I get back to my office the only thing I may consider is this record.

“I will then prepare a proposed award which I will send to the other two members of the Board for their adoption. I wish I could give you some idea when the award will be issued, but that is subject to government funding, and right now the Congress has not passed an appropriations bill for the current fiscal year. You will, however, be notified by your Union representatives when the award is adopted.

“Do you have any questions before we begin?”